

CHARTER COMMISSION

March 12, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

Present: Leon Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy,
Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Messr: Deputy Solicitor Arnold, Finance Officer Kevin Clougherty

Chairman Dykstra addressed item 3 on the agenda:

Minutes of meeting held March 5, 2003.

Chairman Dykstra stated whereas we do not have a copy of the March 5 minutes, I'm going to ask someone to make a motion to table.

On motion of Commissioner Cook, duly seconded by Commissioner Soucy, it was voted to table the March 5, 2003 minutes.

Chairman Dykstra stated we are going to follow the agenda, and if people want to make motions after the reconsiderations, that's fine. You certainly can do so. One thing I did want to mention before. I asked Kevin Clougherty to speak just a couple of minutes on something we passed last week. On the reconsideration that we've been doing, we have done the reconsiderations, and basically, I was looking at the rules of the Board of Mayor and Aldermen, and even though you can make a motion for reconsideration for the next meeting or you can give notice of reconsideration, only one motion for the reconsideration of any vote shall be permitted so whereas what Brad did was fine, what happens is that you reconsider it once, and then you can come in and make another motion to reverse the decision. That's your option. That's your right, but I'm only going to accept a reconsideration once because it was very confusing last week, so I just wanted to make that clear before we start. Before we do, there was something we passed last week that had to do with the school budget being finalized by March 31st and that the Aldermen's budget remain at the same time as you remember. I did ask Kevin Clougherty to come in here. He's only going to speak for a couple of minutes, just

to address us and let us know how that does affect us. I wanted to look at the legality and see if it's something we could do, so Kevin if you could just give us a few minutes of your time, we'd appreciate it.

Mr. Clougherty stated really quickly, our position is that having two separate time tables for a school budget and for a City budget causes a lot of confusion and puts I think more pressure on the debate between the two, so you're better off as I mentioned last time if you're going to move the budget forward, move them both forward for the date, but as I think you recall last time, have a reopener. If you're going to move it forward so that you're not going to have information, what happens in the legislative session at the end of May or June, then at least keep yourself into the fiscal year, some type of an opener so you can address those things if problems arise after that date. Those were the qualifications that I gave to the Commission last time we spoke, and I reinforce them. If we don't see that in the document, then we'll have to speak against it.

Chairman Dykstra stated I do appreciate your coming in. Thank you very much.

Mr. Clougherty stated thank you for the attention.

Chairman Dykstra addressed item 4 on the agenda:

Notice of reconsideration given by Commissioner Pepino regarding a motion that the two at-large aldermen, two at-large school committee, and non-partisan elections be restored.

(Such motion having carried with Commissioners Cook, Duffy, Shaw, Soucy, and Tessier recorded in favor; Commissioners Hirschmann, Pepino, Wihby and Dykstra recorded in opposition.)

Commissioner Hirschmann stated I'll move the question.

Chairman Dykstra stated do I have a second on that.

Commissioner Pepino stated I didn't think it was right for me seconding my own thing.

Chairman Dykstra stated what do you want him to do. Can he just speak on it? It's there.

Deputy Clerk Johnson stated Commissioner Hirschmann voted in opposition, so he can't give the reconsideration. Commissioner Pepino can.

Commissioner Hirschmann stated it says I voted in favor.

Commissioner Pepino stated according to the rules of the Board, anybody can.

Commissioner Hirschmann stated oh no, I didn't.

Chairman Dykstra stated you (Commissioner Pepino) gave notice of reconsideration. He gave the notice, so he can speak on it. Correct?

Deputy Clerk Johnson responded yes, and I think he wants to move. Do you want to move for the reconsideration?

Commissioner Pepino stated if you say so.

Deputy Clerk Johnson stated okay, and then you want to get a second.

Chairman Dykstra stated we need a second on the reconsideration.

Deputy Clerk Johnson stated anybody can second.

Commissioner Wihby duly seconded the reconsideration motion.

Deputy Clerk Johnson stated he wants to speak to his motion to reconsider. I think that's what he was saying. There is no recorded vote. There's a motion on the floor to reconsider.

Commissioner Pepino stated I don't know what good it will do.

Chairman Dykstra stated he wants to speak to his motion.

Commissioner Pepino stated all right. The two Aldermen At Large and the two At Large School Committee, non-partisan elections. I'm in favor of them. I reconsidered them, and I'm not going to sit here and talk for a half an hour about it because we've been talking for four months and done nothing, so all I'm going to say is I am in favor of this, and I would like to reconsider it, period. I won't waste your time.

Commissioner Hirschmann stated from all the reading that I received from the City Clerk over the weekend, apparently others have reconsidered as well, and I do appreciate that people are of the mind to change their mind back once they've changed it, and I move to the question.

Commissioner Shaw asked why is a recorded vote not allowed. Did you say that?

Chairman Dykstra responded no. I didn't say that.

Commissioner Pepino stated I won't waste your time.

Chairman Dykstra responded this is not a waste of time.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Soucy, and Tessier voted nay. Commissioner Shaw abstained. The motion failed.

Commissioner Pepino stated I didn't waste your time. I took five minutes of your time to get it over with.

Chairman Dykstra stated that only took a matter of minutes.

Chairman Dykstra addressed item 5 on the agenda:

Notice of reconsideration given by Commissioner Duffy regarding a motion that all references to the Mayor's and elected officials' salary be removed from the Charter and that the transitional provisions of the Charter provide that the Mayor's salary continue at \$68,000 and all elected officials' compensations remain as presently provided until changed by the Board of Mayor and Aldermen.

(Such motion having carried with Commissioners Hirschmann, Pepino, Shaw, Wihby and Dykstra recorded in favor; Commissioners Cook, Duffy, Soucy, Tessier recorded in opposition.)

Chairman Dykstra stated so this basically did pass, and there was a reconsideration given by Commissioner Duffy.

Commissioner Duffy moved for reconsideration. Commissioner Cook duly seconded the motion.

Commissioner Duffy stated it speaks for itself. Thank you. I move the question.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Pepino, Shaw, Wihby, and Dykstra voted nay. Commissioner Hirschmann abstained. The motion failed.

Commissioner Hirschmann stated I have an emergency call. I'll see you all Friday. (Commissioner Hirschmann returned approximately ten minutes later.)

Chairman Dykstra stated he should have voted. Oh well, it will go around and around anyways. Nothing's ever dead with this Commission.

Chairman Dykstra addressed item 6 on the agenda:

Notice of reconsideration given by Commissioner Pepino regarding a motion that the budgets for all departments having commissions or boards must be submitted to the commission or board for review and action prior to submission to the Mayor; such action taken to be reported to the Board of Mayor and Aldermen.

(Such motion having carried with Commissioners Cook, Duffy, Shaw, Soucy, and Tessier recorded in favor; Commissioners Hirschmann, Pepino, Wihby and Dykstra recorded in opposition.)

Commissioner Pepino moved on reconsideration, stating I'll say the same thing I said before, the same thing that Commissioner Duffy said. It speaks for itself.

Commissioner Wihby duly seconded the motion.

A roll call vote was taken. Commissioners Pepino, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Shaw, Soucy, and Tessier voted nay. The motion failed.

Chairman Dykstra stated next we do have a report. I told you that after the reconsiderations, I would entertain motions. We know that Commissioner Shaw brought forth a Charter for us to look at the other day and right now, I'm going to allow him if he wants to make a motion. If not, we'll move on.

Commissioner Shaw stated I'd love to make a motion, but I'm not sure. Could I speak first to anything?

Chairman Dykstra responded to anything.

Commissioner Shaw stated would you mind that.

Chairman Dykstra stated no, as long as you don't criticize me for allowing you to do this later.

Commissioner Shaw stated it has to be a shock when somebody sends something to you in the mail or has delivered to you that they sat down and done, and the impression might be that I was trying to get around you or, you know, this committee itself. That was far from the truth. I felt that I'd like to see a different

format for discussion that we're having. Many, many, many of the things that I have proposed came from this table. I tried as best I could not to circumvent some of the votes that we'd taken even though people are going to reconsider this. So what you see before you is just pretty much...I've taken a blank piece of paper and filled it all in with the things that I thought would be important, so I'd like to go down what I thought was important to somebody. I eliminated all commissions.

Commissioner Pepino interjected all but two.

Commissioner Shaw stated all but two required by law.

Commissioner Pepino asked are they?

Commissioner Shaw responded yes.

Commissioner Pepino asked are you sure.

Commissioner Shaw stated well, then they can't exist because the Charter says they can't exist if they aren't required by law, so if you change the law...

Commissioner Pepino interjected I'll buy that.

Chairman Dykstra stated just let him have the floor.

Commissioner Shaw stated no, no. I'm glad he asked the question because I think it should be a little more open. Had we started in the beginning with his suggestion, from the very beginning that we should know what everybody is thinking, we'd be further ahead today. Had we not wanted to hear from all of the people, you know in public hearings, we'd be all done by today. So I'm not a public hearing person. Everybody knows that. So, there are two commissions, and we checked it. They're required by law, one by an agreement between another town and us, so that's why I did it. Why would anybody want to get rid of the Water Works anyways because Water Works is a fairly well run establishment? Why wouldn't we want to do what Commissioner Duffy wanted to do is that it's a 40 or 50 or 100 million dollar business at the Airport, and it deserves some consideration. That's why it's in there. And then we come to Commissioner Tessier's concerns here, and I think they're justified, and we just heard from the Finance Director that if you're going to do something by moving the date, do it consistent, which we didn't do here. Everybody here, and of course the schools have proved me wrong today...it's very hard to stand in any committee in the City of Manchester and support the schools when they go out and shoot their own foot, but I really and truly believe...I've believed this for a long

time that moving the date is for the good of the City. I believe that. That's why I put that in. This crazy idea of having the Aldermen make their own nominations is because I believe in a legislative form of government, Commissioner. I do believe that when I took the power away from the Aldermen to appoint people, I wanted to give something back to the Aldermen to make the system fairer. I just wanted to give a hand. You know we've heard a thousand times that we can't produce a budget by March 31st or I said the first Tuesday in April because that's when the Aldermen normally meet, and it seemed like a logical day rather than the 31st which just appears anywhere. It could appear on Saturday or Sunday and not be beneficial to anyone, so I did that. And then, I'm not going to give it to you now, but I have the budget, not the budget for this year that the Mayor is preparing, but I have the budget for the next year, okay, for the City of Manchester, and I've written down all the numbers, and I can tell you what the tax rate is going to be in 2004 or 2005. I can tell you how much the City Clerk is going to get if I was Mayor, okay, how much the schools are going to get. It's all here on this little teeny piece of paper. So when people tell you the budget can't be done, they aren't asking the right people. I thank you very much for the courtesy of hearing a spiel in advance. I would make the motion that the information that I sent to the board be received for discussion purposes and that no one take that it is in concrete, it is final. It is not. My motion is to accept what I have proposed and to after some modifications to send it along to some legal counsel, which I'm not sure who that should be...I think we have to hire one...for their review to send back to us then to go to public hearing and the State of New Hampshire. So that's my motion.

Chairman Dykstra stated so your motion is for discussion, even though what you sent out to us that I shall make a motion Wednesday that this be accepted as our final document and that it be sent to legal counsel. That gave us the feeling that you didn't want to discuss it, unless you changed your mind again.

Commissioner Shaw responded Madame Chair, the reason that we have discussion is that we want to change people's minds. I believe in that sincerely. That's the reason we're debating. When I put the word "final", I apologize because at the top, I have said somewhere I thought here that this was the minimum, so then when I got down to the bottom, of course, I used the wrong word. This is what I believe should be done. If that gave people the impression that it shouldn't be changed at all, and I could see why that would be true, I apologize in advance to everybody. We're a Commission. We look at all things.

Chairman Dykstra stated I certainly think I've been fair with everybody. I believe in that. We do have a second, and do we have any further discussion on this, or do you just want to take a vote on it?

(Commissioner Hirschmann returned to the meeting at this time.)

Commissioner Cook stated I think we should tell Mr. Hirschmann what the motion is.

Chairman Dykstra stated Commissioner Hirschmann, Commissioner Shaw has brought forth his proposal but has not asked that it be a final document, that we discuss it, so it's been seconded by Commissioner Wihby for discussion, and we are still discussing if you want to discuss, or we can move the question. If we just kind of put it out there, we can discuss it. It's up to you.

Commissioner Cook stated I have a question on the affect of the motion. We have some, not many, but we have some votes that have been taken that are taken. We have some votes that have been taken on things that have been tentatively decided that are inconsistent with this. Now I understand Commissioner Shaw's motion was just that this be taken for discussion, but I'm trying to figure out where we are vis a vis the things we've decided and the things that are here that may be inconsistent with the things we've decided.

Commissioner Shaw stated he's right, and my motion is incorrect.

Chairman Dykstra stated so what is...do you want to withdraw it?

Commissioner Shaw stated my motion is to substitute all of this for everything that we have done. In other words, this is a substitution for all motions, votes that have been taken in the past. This is a document...

Commissioner Cook interjected well, then that's different.

Commissioner Shaw stated that's right. It's a lot different.

Chairman Dykstra stated well then if there's a second...are you withdrawing your motion?

Commissioner Shaw stated no. I'm correcting it.

Deputy Clerk Johnson stated I would prefer it if the motion was withdrawn, and we start over so I can clarify it.

Commissioner Shaw stated I withdraw my motion.

Commissioner Wihby withdrew his second.

Chairman Dykstra stated then we'll start all over.

Deputy Clerk Johnson stated so can we clarify, the motion will be to substitute this document for all actions taken to date for discussion purposes. Is it your intent that this serve as a preliminary document for legal review, or are you just saying we're going to discuss this and substitute it and discuss it at this point?

Commissioner Shaw stated I would like to see us, and I don't think we can do it tonight though I think we're prepared to do...the Clerk might be prepared to do it tonight, but I think that there are people here that might not want it as a final document. I intend this to be the final document with amendments made by the members that are here. In other words, if they don't like the fact that there's no procurement code, I find that a proper amendment to the whole thing.

Commissioner Wihby duly seconded the motion.

Commissioner Pepino stated Commissioner Shaw, you went around and you said, "They want this. They want this. They want this." The main point is to hold on to things we all wanted, the eight of us, and then say what you want. What the eight of us want, four want some things. The other four don't want them. The other four that want these things, these four don't want them. So what have we gained?

Commissioner Shaw stated I think we have a document that incorporates a lot of what we wanted. It doesn't incorporate everything. It definitely doesn't incorporate Mr. Cook's position that it is best for the City to have non-partisan and 14 Aldermen. It does not contain that, okay, and that is a major sticking point for at least four people. It's an issue that should...I know we've discussed it a thousand times, but partisan elections are part of what is happening, and I think he doesn't want it. I don't want it, but partisan elections are a fact of life in the City of Manchester. We think that we elected a non-partisan person, and maybe he thinks that, but I don't think that. Basically, I couldn't satisfy him and satisfy you. I can't satisfy Commissioner Tessier and satisfy another group. You've got to take and make a decision that you can get a fifth vote for, and I think I explained to you in the past, it's so simple to do. It's simple to get a fifth vote on this committee. All you've got to do is take one of the eight and make them change their mind and move to where there are five. You don't need my vote to be fifth. None of the four on one side and none of the four on the other side needs my vote. It'd be much better if one member of this committee would say, "I favor"...of the four and move to the other side and become for the 14 or that one Commissioner moves from the side that wants 14 over, even though he wants it...or her, and I'm sorry Patrick, I'm pointing at you but I don't mean to...move over to your side.

And then you know the beauty of the whole system. You don't need my vote, and I favor that form of government. You don't need me.

Chairman Dykstra interjected I just want to address something. The thing that seems to be happening here and why we're going around and around is that you say one thing, vote one way one week, and you change your vote. Last week, you were on a different route altogether, and you know, so that it makes it difficult. So one week, you're placating this side and that side. It shouldn't be side and side. They have their certain agenda, and I respect it. I have certain things I want, but it's very difficult to work with a person who one week says one thing, the next week says another thing, and that's our problem, Commissioner. You know that.

Commissioner Shaw stated I agree with you a hundred percent, and if you had taken charge here and stopped the people from these motions to reconsider the Mayor's salary and to spend, I would venture a guess...

Chairman Dykstra interjected we have a right to reconsider, Commissioner.

Commissioner Shaw stated but you see they all have a right to reconsider, but I don't.

Chairman Dykstra responded yes you do.

Commissioner Shaw stated no, you said that, just a moment ago. You said that you don't know where I'm coming from.

Chairman Dykstra stated a motion for reconsideration. Okay, I'm just going to clear this up. A motion for reconsideration, if one side wants one thing, and the other person disagrees, we have been consistent in what we agree with. Of course, you change your mind from time to time, but you've really change your mind. We're going to continue to discuss it.

Commissioner Shaw stated then what's the reason for debate.

Commissioner Duffy stated I commend Commissioner Shaw and the work that's been done in at least putting on paper what he sees as a proposed Charter for the City. Obviously, there are things in it that I personally cannot go along with. That doesn't come as any surprise to you, I don't think, but surprisingly enough, the number of items that I would take exception to have been reduced from where we had been. I'm looking at four items, for example, that I would challenge in terms of how you have it written in your proposal, proposed Charter. So, I think that's moved us forward, and I think we need to look at this as a viable option with an

opportunity to review and discuss some of these issues so that we can see whether or not we can in fact get a majority vote on some of the critical issues.

Commissioner Shaw stated could I respond. I agree with you. There are things in there that need to be changed and improved on, but I'll disagree in this sense. Until somebody moves from 14 or 12, and that's not myself okay, I'm talking about there's basically four people that vote for 14. They have their right to do that, and there are four people that vote for 12, and until you do that, until you move a person from that side to the other side...you see I've already written...you might not like this, but I've already written the 2004 Charter for you because if we fail here, if we fail to pass a Charter okay, the one that's in place, so I just changed the date on mine.

Commissioner Duffy stated may I just respond then. Interestingly enough, one of my four items is not the little business that you're using as an example, but is in fact the meeting times for City boards and other groups whether they're called commissions or what have you. To suggest, and I know you've subsequently provided us with some more information, we haven't voted on that to the best of my knowledge even though we've been at this thing for the last three months. To my knowledge, this has not come before us as a vote, yet you've incorporated some very specific language in this Charter, which hasn't even had the light of day quite honestly. We need to have a discussion about matters such as that.

Commissioner Shaw responded I agree that we should have a discussion on it, but you understand that that was in the category of minimum, so what I'm saying to you is I have no problem that we keep nighttime meetings, that we have 14 aldermen, that we have partisan elections, that the budget is on July first. In other words, no Charter passes. I have no problem, but there's a solution to Shaw's dilemma for you, and that is to move one person who will give up his right to have 14 aldermen and partisan to their side or even better, or worse, there's one person from this side moves to that side. You see, I'm trying to lay it on the table.

Commissioner Pepino stated we've sat here now since November, and we'll pass something tonight, and we'll take it back the next week. Then, we'll pass something else, and we'll kill it the next week. I feel I've wasted my time here all this time. That's my feelings. Now we're going to start all over again? As far as I was concerned a couple of weeks ago, I was ready to say, "Bye. Let the Aldermen appoint somebody else." Cause I can't sit here on a committee, there's one person here that told me that before we even met for the first time, "I can't sit on a committee and do nothing." And that's what we've been doing. Nothing.

Chairman Dykstra responded we were doing something.

Commissioner Cook stated I agree with Commissioner Duffy on the fact that when I got this document, I was surprised to get the document, but through thick and thin, I've always considered myself to be Bob Shaw's friend, and I still do, so I'm never terribly surprised because that would be consistent. The document that we got has a lot of things in it that have nicely and I think intelligently narrowed the issues. One of the things that I was surprised about, having been involved in the language of the last one, is how much of the last Charter's language you could take out and still have a Charter. That's been a point that Commissioner Shaw has had for a long time. What I am having a problem with right now is the nature of the motion, and maybe that's because I'm a lawyer, but the nature of the motion to substitute everything here for what we've been talking about which means that whatever it is we're basing our discussions on becomes this and to the extent we can't agree on things, this becomes what goes to legal review...I asked my question before hoping that the answer wasn't going to be, "I'll substitute a motion that this substitutes for everything else," but that Commissioner Shaw would take us through this document and explain to us his reasoning because it is comprehensive. We're not going to agree with everything, but I'd like to hear the rationale for it to compare it to how I understand this so that we'd have more information on it. I can't vote to substitute this for everything we've done, but I'd love to hear the explanation, and so if this motion comes to a vote, I'm going to have to vote against it. I wish that wouldn't happen because I'd like him to have the opportunity to take us through it to see where we are because I liked a lot of the stuff I saw. I didn't like some of the stuff, but that's not the point.

Chairman Dykstra stated some of the things we did vote on.

Commissioner Shaw stated I thought I put most amendments in it. Could I respond to Commissioner Pepino because I thought I gave you the most? When I looked around the table here, and I was trying to decide, you left the meeting last time incensed that we had reversed ourselves and gone to 12, and I gave it back to you. Second, you left the committee totally incensed that we were setting the government back 20 years because we were giving things to commissioners to do.

Commissioner Pepino interjected I agree.

Commissioner Shaw stated the Mayor's salary, you were a thousand percent...

Commissioner Pepino interjected two thousand...

Commissioner Shaw stated two thousand percent against the Mayor getting any raise, and I thought...I put that back in there for you. You know, it would have been tricky on my part to try and circumvent, you know, a majority of what people were thinking and what they should do. I was a former Mayor of the City and

taking away the right to appoint the committees is a major loss for the Mayor mentally maybe. But then I spoke to one of the committee members that when he was helping the Mayor form his committees, he found out he couldn't appoint them all anyways, and when I was Mayor, they took my power away to make committee appointments by making all the committees committee of the whole. I said, "But you can't have a committee of the whole because I didn't nominate them." I'm just letting you know that I took a lot away. I gave a lot back. I find that this government is expensive. The citizens think City government is expensive. Mr. Stephen sent me a letter that said it was expensive. I accommodated him by cutting the cost of government. I thought that was pretty good, but I think Mr. Cook, you know, and if the committee wishes, I think for the first time, and it isn't just what I think in these particular paragraphs, but I think we should go down page by page because you have a question. Not just write down 39 of them, but let's go page by page and find out, but we won't take any votes, you know, till the end or you can make amendments to this here. This is not granite except for the minimum. Otherwise I'm sorry, and I apologize to everybody here, and you are absolutely right, but the Mayor said he can live with this.

Chairman Dykstra stated the Mayor is not on the Charter Commission. Commissioner Hirschmann is going to speak in a moment, but the thing is, you know we're all elected as commissioners, and I think we were all going down the right road. Even though we didn't all agree, we did have something substantial that we were doing. Now, I don't know how...you know, you can do it, and that's fine, but did you feel that we were incompetent? You didn't feel we could all work together and bring forth a document other than you bringing forth something on your own and then letting us work from that document. That kind of makes me wonder why we all were elected.

Commissioner Hirschmann stated what I have to say, I'm not in a debate, but I have the floor, and I really think that this has to be said. In all my ten years of serving the City of Manchester, in the City government in different capacities, boards and commissions, I have never ever had anyone pull the tactics that are being pulled on this committee. The gun to your head politics of having something voted on and passed and pulled away at a whim, cause if that person doesn't get their way, they're going to take their ball and go home. It is the least honorable thing that I have seen in my ten years of government, and I, sir, I am astounded that you have the audacity to pull this type of tactic. We are a committee. You're talking about sides. The side that I'm on is the side of the people. Every vote that I take, I take sincerely in my heart. There are 32 items in this piece that you have crafted and I received yesterday, and I stayed up all night last night, there are 32 items that I would never vote for. I will make amendments. I'm glad you're allowing us to make amendments in this honorable committee that

we're serving on. It is the hope of the people of Manchester that they can possibly have Charter revision, but we're at the point now, maybe it's not going to happen, and maybe it's your fault. How can you have the audacity to vote against a reconsideration but have it in your proposal? You're playing games with the people's time in this room. I don't respect you any longer. No matter what we vote on, I hope we pass a Charter, but I've lost total respect for you.

Chairman Dykstra stated okay. All right, we're not going to get into...

Commissioner Shaw interjected but I could respond.

Chairman Dykstra stated you can respond on the Charter.

Commissioner Shaw stated my only response is this, that all of us were elected by the people, for the people.

Commissioner Hirschmann interjected don't forget it.

Commissioner Shaw stated but that's important. We are here to discuss, to debate, and to change our minds. I want Mr. Cook to bring forward a proposal that I might like, all right, and didn't like yesterday. That's democracy, and if you will outlaw democracy, then I'm sorry for you. You made it personal. I have no problem. I've already changed the date on my book.

Commissioner Pepino stated when we started here last November and December, we decided we'd work on the 82 Charter. So we took the Charter, and we went through it section by section by section by section, and we highlighted the sections we all wanted to discuss. We haven't discussed them yet, so now what we're talking about is taking another Charter and going through it section by section by section, so we're right back where we were last November. Nothing has changed.

Commissioner Hirschmann stated the other thing that I found abhorrent is that the City Clerk was tied up for a ten to twelve hour period in City Hall. The minutes for our own agenda weren't ready, but they had time to craft a whole new Charter. Where are the priorities that this committee has taken votes, and I expect when we vote on something that it's going to get done. And now there are motions to totally ignore all of the votes cast. We've been meeting for four months. They created the Constitution of America in three months. I'm very, very angry at the tactics taken by...someone has taken the low road, and it shouldn't happen in the City of Manchester.

Commissioner Shaw responded I don't know where he got the impression that the City Clerk's office produced this thing here on government time. Is that possible

that you might have been misled about this? I mean, we're a nine to five Monday through Friday government. I didn't know that you somehow had the impression that the City Clerks favored, you know, me with a service that you couldn't ask for.

Chairman Dykstra stated I just wanted to address something myself. I know there are a lot of things we didn't get into, and we were going to be getting in because we had a lot of flagged items that we were going to discuss. You know, there were things that bothered me too because the public comment once a month was taken out. I mean, you could speak at the boards and the commissions and give your testimony, but evidently that monthly comments that you gave before the Board of Mayor and Aldermen was removed. I did want to address the Conduct Board because I felt that the citizens certainly didn't have access, that it had to go and be approved by the Board of Mayor and Aldermen, and it was never used in six years. That was something very important to me and I thought to the people that I felt we should have addressed, so there were a lot of things in here that I also thought we could have done as a committee.

Commissioner Shaw stated I ask the second if he will withdraw his second. I'm going to withdraw my motion.

Commissioner Wihby withdrew his second.

Chairman Dykstra stated so you're withdrawing your motion, which was to accept...

Commissioner Shaw stated to do anything.

Commissioner Cook stated no. It was to substitute this for the actual...

Chairman Dykstra stated you were going to substitute so that...

Commissioner Shaw stated I'm making no motion.

Chairman Dykstra stated so we have discussed this. It's still...

Commissioner Shaw interjected you don't have to discuss this.

Chairman Dykstra responded no, I mean we don't have to. That's right, but it is there. We're going to move on.

Chairman Dykstra addressed item 7 on the agenda:

Report(s) from Clerk regarding language relating to the budget, if available.

- a) Commissioner Cook's proposal
- b) Commissioner Hirschmann's proposal

Deputy Clerk Johnson stated we need to get it out to them. I do have it.

Commissioner Shaw stated if you don't have the votes to pass a Charter, that's your problem.

Commissioner Hirschmann responded don't wise mouth me, Sir.

Commissioner Cook stated fellows, come on. Please.

Chairman Dykstra stated no personalities here.

(A one-page report was distributed to the Commission).

Deputy Clerk Johnson explained there were two items that had been requested, and I actually...I'd just like to clarify something for the record, that this was done on City Clerk's time, and the other proposal that was given to you by Mr. Shaw was not, and I do want to clarify that for the record. That having been said, Section 6.11 and 6.12 before you has to do with the language that Commissioner Cook had submitted, and we had been requested to go back and look and see if we could shorten the language or take some of the duplication out particularly out of the Finance Officer's section, and we attempted to do that. And the second is 6.13, biennial budgeting, and that had to do with some language that Commissioner Hirschmann had spoken to at the last meeting, and we did in fact work on that, and I guess I would give you the moment to read through it, and then you could take it as you wish.

Chairman Dykstra stated after we read it, it certainly would be in order to have a motion and a second whether to accept this.

Deputy Clerk Johnson stated we put it both on the same page for paper purposes, but it's really two separate sections that the committee had been talking about originally.

Chairman Dykstra asked can we take it as one vote.

Deputy Clerk Johnson responded you can if you want. It's however they want to move on it. They may not like it at all.

Chairman Dykstra stated yeah, but you might like it next week. You never know.

Deputy Clerk Johnson stated if you want to take a moment to do that, I'm going to hand out the minutes just so you have them.

Chairman Dykstra stated we have the minutes, so she'll hand those out, and we'll vote on those next week, so you'll have the week to look at them.

Commissioner Duffy asked Madame Chair, are we discussing what was just passed out.

Chairman Dykstra responded no. Evidently, she's going to go over it for us, but she wanted us to read it first, and I'll accept motions if you want to approve all of it, parts of it...

Commissioner Duffy moved Section 6.11, Finance Officer, for discussion purposes.

Commissioner Hirschmann duly seconded the motion.

Commissioner Cook stated my point, and I appreciate the fact that this was slimmed down and that's good, but my point in writing what I wrote was I had been hearing the issue that our officers of the City who are also department heads in the City, the Finance Officer being the prime one, were in a confused situation because as department head, they had one kind of reporting authority and as officer, they had another, and so my language, that got deleted out of here as I recall it, said the finance department head. It has been changed to Finance Officer. That's a fundamental change. What I was trying to get across was the head of the Finance Department, whatever we want to call him, will serve as the duties of the Finance Officer but be like every other department head, which I think was Commissioner Shaw and a few other people's point. They should be appointed by the Mayor. They should be responsible to the Mayor. They should do that. This begs the question on that question, so I think the meaning that I had proposed has changed.

Chairman Dykstra stated is there any way you can amend this or change this to reflect what you wanted.

Deputy Clerk Johnson stated I think he wants to just go back to what he initially said, probably.

Commissioner Cook stated there was too much language there, so I appreciate the fact that it's been stripped down, but changing department head to officer begs the question that we were in. That's my problem.

Deputy Clerk Johnson stated maybe he can look it over and make an amendment to it.

Chairman Dykstra stated you can look this over, and we can bring it back next week. You want to table this?

Commissioner Cook responded no, I'm not sure I do, but I just...we're doing discussion.

Commissioner Duffy stated may I ask for a point of clarification of Commissioner Cook. In this, "in addition, if requested by the Mayor, shall assist the Mayor" and so on and so forth. Just prior to that is a statement about "shall perform other duties relating to budget management and control as may be required by ordinance". That's new language from anything that I've seen.

Commissioner Cook responded that was in the end of the old section, I believe. "Shall perform such other duties relating to budget management and control as may be required by ordinance". I just think they moved it around, and I don't know how it got there, but what I was trying to get across was the Finance Department head will serve the duties of the Finance Officer but be a department head like everybody else. I think that's all I ought to say.

Commissioner Shaw stated I thought it was written somewhere else.

Chairman Dykstra stated do you want to amend anything now or do you want to...we're just on 6.11. That's all, Commissioner Duffy.

Commissioner Duffy stated if we can't get through 6.11, why go on to the next piece, but I'm trying to get a clarification and match it up against what's in the existing Charter and what's in the old Charter and what in fact Commissioner Shaw had previously alluded to in some of his proposals, so...

Commissioner Shaw stated one, I gave him a place to work and who he should report to.

Commissioner Duffy stated and where did you do that, if you might enlighten us.

Commissioner Shaw responded I think it's under 6.12 on the audit. Most of that was copied from Commissioner Cook's original intent, especially internal audit

because the internal audit of a City has more to do than the number of beans. It has to do—does the Airport plow their runways in straight lines or do they go in circles? You see, that was my idea of what an internal audit would be. If you do the program, you look at it, you can specify, and it comes back to the proper authorities, and I felt it was very, very important for the Mayor's perspective in preparing budgets, the Mayor should have some indication as to the performance of the City itself, not mathematical performance but you know they got 50 cars over at the Police Department and only two leave for a day. You see that to me is an internal audit, and I gave him a place or who he should report to, to the Aldermen I thought was very good. As I said, I never intended to do more than respond to what people wanted, but I made a mistake. I was innocently at fault.

Deputy Clerk Johnson stated I guess I can just throw a suggestion out if I'm understanding Mr. Cook's concern. I think the last two sentences are dealing with department head issues and perhaps if instead of saying merely the Finance Officer, you say the Finance Officer as the Department Head shall assist, and the Finance Officer as the Department Head shall provide for. I don't know if that will...

Commissioner Cook stated if some place else in the Charter besides 6.11 and when we see an integrated Charter we'll know, but if some place else it says the departments of the City are one, two, three, four, five, six, seven, eight, nine, ten, and one them is Finance, and some place it says the Mayor appoints officers and department heads, and if some place it said officers who are in charge of departments shall report to the Mayor the same way that all other department heads do, then you don't need to change this because then you've said it three different places. One of the problems we have looking at independent sections is we don't see how they go together, but my motion would be that when we pass language about the Finance Officer which is certainly somebody that we have in the City that the elements include that he's appointed by the Mayor, that he's a department head who reports to the Mayor, and he performs these duties, and among these duties if requested, he does the budget and if requested he gives the information to individual aldermen or the Board. The drafting people can draft it as long as it's all in there.

Commissioner Shaw stated in your proposal, we tried to incorporate information I gave you in a form that you could go to page by page, and somebody could see the error of their ways. That was going to be the intent, but I thought your proposal of the internal audit was important, and I made adjustments for...that doesn't mean it's correct, it just means, that's what I put down. I know that you're concerned about that, but you know, a concern that bothered me a great deal was that the Mayor had the power to fire any department head with six votes plus his. If we look in the new version, Shaw's version, and I said that was totally wrong, that

there ought to be the officers of this City, you had to have a super majority of Aldermen to get rid of them, ten votes. That means Mr. Clougherty walks in here and gives the Mayor his advice, he can't be fired for it. He's got to have ten people with him, and the Mayor doesn't get to vote to fire a department head under the proposal I gave you.

Commissioner Cook stated that was the difference between officers and department heads, and I think there should be a distinction. I understand that. I'm not sure it should be ten, but I understand the distinction.

Commissioner Shaw responded I thought about that. Six would be nice for some times, I'd like to get rid of someone, but we're not discussing that particular subject.

Commissioner Cook stated my point is I don't know whether we should be referring this. I mean, we referred this to drafting before, and this is what we got back.

Chairman Dykstra stated if it's not exactly what you want, we can send it back.

Commissioner Cook stated it's not not what I want. It's just not all inclusive because I haven't seen the other sections that refer to officers and department heads. If those things, as in Mr. Shaw's draft, take care of that in the other places, then I'm happy.

Commissioner Shaw stated but you know you could solve that, Sir, by just showing up on a Saturday and working 12 hours, and you have to do it in front of a computer. I know lawyers don't do that. They put their thoughts down, and people transcribe them, but it's neat when you're sitting there, and the computer screen...

Chairman Dykstra stated all right. We do have this document in front of us. We can discuss it. You can move on it. You can not move on it. You can table it. You can do anything you want with it.

Commissioner Duffy stated can we have this incorporated into a draft document that I think that the City Clerk is assisting us by putting together. Then we'll see it in the context as Commissioner Cook is suggesting, context of the total rather than a discreet item that makes it very confusing to know where it's at.

Deputy Clerk Johnson stated unfortunately some of the sections that you're talking about are sections that are still up for debate that you haven't acted on, so what

he's looking to integrate hasn't been completed, and therefore, you're not going to have...

Chairman Dykstra interjected what would those be, Carol. A lot?

Deputy Clerk Johnson responded he's really talking about department heads, and I believe my recollection, and I was just looking through this. These are different drafts that we've been working on, and I don't believe we got so far as the appointing process for the department heads or in determining who was officers and who wasn't. You didn't do any of that yet, so the ultimate end of that is that other than saying the Mayor was going to nominate and the Board confirm, you did nothing else as of this point in terms of department head authorities or anything else so unless we say you're going to use the 82 language and we use that as a basis and I'll incorporate that and be happy to do that which is in essence, and I'm not speaking to the document one way or the other, but in essence, the Shaw document that you got was the 82 Charter which was the basis that the committee said it was going to start with. Then crossed out from that was anything removed, and then we highlighted the 96 language, so at least you knew where the language came from, and you had one whole complete integrated thing to work with. Whether it makes sense or not is your decision. I'm not part and parcel of that. I have no opinion on it to give you, but I will tell you that I think that you're right. You need to be looking at an integrated document of some kind and then try to make changes. If you recall, we started out going through the 82 Charter, cause that's what you chose, and we tried to have you go consistently through it, but people wanted to make motions, and some people wanted to go to...so we did an items flagged listing, trying to keep it somewhat organized, so we could try and give you something to work with, and really that's where you're at. It's very difficult to take a piece when you don't have the whole whatsoever that you're basing it on. If you had started with one Charter and said, "Okay, we're going to amend different sections and go through it," at least you knew what the integration process was going to be. That's not to say that you couldn't go back and change something that you do or whatever.

Chairman Dykstra stated would it be appropriate even just to table it until we had all the information.

Deputy Clerk Johnson stated what we can do is take all the actions to date that the committee has taken, and we can take the 82 language if that's what you want to use and do in essence the same thing that Mr. Shaw has done with his proposal which is you have one integrated document to start with, or you can take the 96. It doesn't matter to me what you do, but I think it would be easier for you to go forward from that basis and then say okay, and we could do a similar thing where everything is in plain language, and bold is what you've adopted.

Chairman Dykstra asked what language is closer. Is it the old Charter or the new Charter closer to what you're looking at?

Commissioner Cook stated I would go with appointments of officers. This is something that Commissioner Shaw and I agree on at the moment. My preference would be that appointments would say department heads and officers shall be nominated by the Mayor and confirmed by a majority of the Aldermen, so they would all be in the same way.

Deputy Clerk Johnson stated that, I believe, was the one piece that you did pass so far, but I'd have to go back.

Commissioner Cook responded so we did that. That's one thing, and I would have a section in there that said department heads and officers who head departments shall be considered in the same relationship with the Mayor. Now, that may not be the perfect language, but in their duties as department head because I think that takes the confusion away. That was what I was trying to do in this thing. Now, I know it was in other sections, and I think Commissioner Shaw was right. We were being redundant, and I think when you strip that down, that was fine. Then when you get to Finance Officer, if those other two things were in the Charter, that's fine because he's an officer who's also a department head, and those two other things create the relationship for him and everybody else. Then, I'm happy. That's all I'm saying.

Chairman Dykstra stated so what is your pleasure on this here. I mean, do we want to just table it? I mean, what would be the best thing, just to hold onto it until we take care of the other things that relate to it?

Commissioner Cook stated I'll make a motion that we table it to be integrated in with the draft.

Commissioner Soucy duly seconded the motion.

Deputy Clerk Johnson asked what are we tabling now.

Commissioner Cook responded 6.11.

Commissioner Soucy stated table and integrate.

Commissioner Cook stated that's to table and integrate or maybe it's to refer to drafting and the whole thing.

Chairman Dykstra stated we can table it. Then you take it off the table when we have everything. Then you can send it to drafting.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated then we have 6.12.

Deputy Clerk Johnson stated 6.12 was the audit language, and I have to be honest, I did not draft this.

Commissioner Duffy stated Madame Chair, may I suggest that we do the same there. I think that that has incorporated some of the concerns of identifying the difference between an independent financial audit from an internal audit function.

Chairman Dykstra stated so you want to table on 6.12 also and then bring it back for draft. Do you want to do all of it or how about 6.13? Is that something you want to do it all or what? Do you want to table this whole document, and then look at it closer and address the parts that need to be addressed?

Commissioner Cook stated I think 6.13 isn't dependent on anything else. My only comment on 6.12, I've been listening to the comments for a couple of weeks about it's not just the financial performance that an internal auditor does. It's the performance, and I think that's correct, so in 6.12 (b), performance certainly incorporates financial but more and so my suggestion and I'm happy to table it, but my suggestion would be to remove the word "financial" from internal audit and just make it "city's performance".

Deputy Clerk Johnson stated he wants to move to strike the word "financial". Is that what you're doing?

Commissioner Cook responded correct. There's a motion to table.

Commissioner Hirschmann duly seconded the motion, stating that's a proper amendment because the type of audit that person does is a performance of the departments, not necessarily a financial auditor.

Commissioner Shaw stated on this particular proposal, you are causing again the same problem that was caused the last time when it was decided the Finance Director would be XYZ and not the same. The internal auditor...somebody has the impression the internal auditor should speak only to the committee. So he has information that is important to the Mayor. He first speaks to a committee. I find that to be wrong from a mayoral perspective that the information...this is why the Mayor needs this information in order to create the budgets that he's making.

There's an awful lot of oil hidden in oil barrels somewhere. That is important information that the Mayor needs to know before he goes out and makes his own budget. You see, and you have it down here that he should only report to a standing committee which now means that this person says, "Listen," to the Mayor. "You're not my boss. You can't tell me what to do." You see, in the proposal I had, the Mayor nominates the person. He can be fired by the Mayor, okay.

Commissioner Hirschmann stated just for the committee's benefit, the Committee on Accounts of the Aldermanic Committee serve as the audit committee, and the performance audits were requested by the audit committee, so that this person would go out on proper tasks and not be sent on a witch hunt of sorts, so he reported to a committee, and we probably should add a "c" to this. I don't know how this person is going to get their raises in the future. I know right now, the Finance Officer has this person under his department, so he gives the raises to the internal auditor, so that's one little piece to it, but it really is keeping the auditor on a course, to recognize that an audit committee is the proper form, if you ask Kevin Clougherty.

Commissioner Soucy moved the question.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Soucy stated could I make one further amendment. In 6.12 (a), in the second line it says to assure than an independent audit. I think it should say "that".

Commissioner Cook stated that's just a typo.

Chairman Dykstra stated we don't even have to move on that.

Deputy Clerk Johnson stated I didn't get anybody, the first and the second on tabling this.

Chairman Dykstra asked on tabling the 6.12?

Deputy Clerk Johnson stated I didn't catch it. That's why I'm trying to go back to it.

Commissioner Duffy stated table and incorporate for drafting, with that amendment.

Chairman Dykstra stated the same as what we do with the first.

Deputy Clerk Johnson stated the first one I think was on the table until you get a draft of other stuff, and then you were going to insert it. Is that what you want to do with this too?

Commissioner Cook stated the motion was for that one to go to drafting.

Deputy Clerk Johnson stated Duffy by...who seconded?

Chairman Dykstra responded Cook.

Deputy Clerk Johnson stated I guess I don't understand tabling and then incorporating with drafting. I'm just not real clear on that. What you're expecting us to do with it, I'm really not clear on.

Commissioner Cook stated would you take a friendly amendment. We're just sending that to drafting.

Deputy Clerk Johnson stated okay, to incorporate with everything else. So, it's actually moved to be accepted at this point. So, you're moving to accept it. Anything that's in draft form now is part of what's been accepted. Okay, so the motion is to accept with all of the amendments.

Chairman Dykstra called for a vote. The motion carried with Commissioner Shaw duly recorded as opposed.

Commissioner Pepino stated I might get shot for this, but I'm going to give it a shot. We started playing again here, half an hour over this. Now we got...I hate to say this...we got this Charter in front of us. It's complete. Four of us agree with it. Four of us don't. Would it be a good idea to take this and work on this as a document, all of us to work on this and make our changes and not sit here and argue for a word or two for two hours?

Chairman Dykstra stated this is a list Commissioner Shaw has to have or he will not support it, so there's going to be a lot of work for nothing.

Commissioner Pepino stated he said he would change his mind, so I'm ignoring the first. He says he'll go for it.

Commissioner Shaw responded I said I didn't want to be fifth vote.

Commissioner Pepino stated I've been sitting here for half an hour thinking about this, of whether to do it or not. Now, what do you think about that? Is it worth a shot or what?

Commissioner Cook stated I thought we were on 6.13.

Chairman Dykstra responded yeah, we were on 6.13. I thought you were going to discuss that. I'm sorry. If you want to bring up something later, you can. Okay, let's just get through this, cause this has to be done. It may not seem too exciting, but it's something that has to be done. Okay on 6.13, biennial budgeting. Any discussion?

Commissioner Duffy stated can we have Commissioner Cook explain. He's embellished a lot.

Commissioner Cook responded 6.13 wasn't mine.

Deputy Clerk Johnson stated it's Commissioner Hirschmann's.

Commissioner Hirschmann stated I just tried to look through the minutes because it is different than what I said.

Chairman Dykstra responded okay. Well, that's why you're looking at it. That's okay.

Commissioner Hirschmann stated I think that it does what we want it to do, and I would like it massaged to be correct.

Deputy Clerk Johnson stated what else would you like.

Commissioner Hirschmann responded I don't know where on our minutes because I did not bring that because I thought...

Deputy Clerk Johnson stated I guess I'll explain what I thought. I thought that you wanted the biennial budget. It's still in. That you wanted to make sure that a biennial budget was not introduced during the second year of the Mayor's term. It could only be done in the first year of the Mayor's term. And that if there was a deficit, they could reopen the budget. Actually, you wanted it reopened either way though, if I recall, so maybe we should go back and look at those words.

Commissioner Hirschmann stated I was trying to find it.

Commissioner Soucy stated I think on page 27.

Commissioner Hirschmann stated the important part that I said is under either plan, the fiscal year must close out June 30th for all reporting and have a management letter annually. In other words, even though you're adopting a two year budget, you're still going to close the fiscal cycle annually and report where the chips fell, and the fund balance goes on to the next budget. It would be allowed to be reopened if there wasn't a fund balance and there was deficit or a problem.

Deputy Clerk Johnson stated okay, so you want the fiscal year noted in here.

Commissioner Hirschmann stated the year has to close out. In other words, you can't adopt a biennial budget, keep the budget open for two years without having a fiscal year close out. So if we adopted it for 2004 and 2005, you have to close out 2004 to see that everything closed out properly. If there was a fund balance, that would carry on to 2005 or if there was a deficit, you'd have to know it, and you'd have to have our management letter and our audit like the Charter says.

Commissioner Cook stated so in other words, what you're saying, pardon me Madame Chairman, but in other words what you're saying is this doesn't make it a two-year fiscal year. It makes it a two-year budget. Each fiscal year stands as it's always been, which I agree with.

Commissioner Hirschmann stated all you're saying is how much money you're going to spend over the two-year cycle, but you still have to do your annual accounting.

Commissioner Cook stated I guess the question is whether that has to be in here or whether there's other things because we already have language that says what the fiscal year is. I'm not sure this is inconsistent.

Commissioner Shaw stated I think that Mr. Clougherty came today and one of the important points he brought to us, which I think is important in any financial matter is a period where it can be reopened, and I don't see in his two-year proposal, maybe I've missed it, where it says that it can be reopened for...

Commissioner Hirschmann interjected last paragraph.

Commissioner Cook read "may request the board of aldermen to reconsider the budget".

Commissioner Shaw asked for how long and what time span because in most things, you don't reopen a budget for longer than x, okay. It's dangerous. You

don't have it open. Schools couldn't function with an open budget longer than 90 days.

Commissioner Hirschmann stated here's what I said in the minutes last time, just to get it right. "Deficit spending above budgeted amounts is unlawful at any time. Should an emergency arise, the budget may be reopened by a vote of two-thirds of the Aldermen in the second year if it is believed that spending cuts alone will not resolve the matter." We need some concise language because this is very important.

Commissioner Shaw stated I don't see the Mayor and Aldermen being able to produce a budget in two months.

Commissioner Hirschmann interjected Craig Benson just did it, and you agreed that he did it. We should be able to do it.

Commissioner Shaw responded no. They created a budget. There's a difference between that because you see when you use the 90 day format, you don't have 90 days. The School Department must have public hearings. The Aldermen are required to have public hearings. I'm the only Mayor that ever reopened the budget. I thought I had 90 days to produce a budget. Again, I had 60 days because I had to go with the public hearing, the whole bit. Then, it had to come back to the Aldermen to be voted on and closed and then you get into a contest as what is the 90th day. I'm going to tell you it's quite interesting. The State of New Hampshire has a law as to what is a day and how you count them. That was interesting, but I only point that to you Commissioner.

Commissioner Hirschmann stated I move to table this till we can get the language of the minutes into the proposal.

Commissioner Soucy duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, it is tabled. I think that's the best way to do it.

Deputy Clerk Johnson stated what I will do is work with the Finance Officer to try and get your language in there.

Chairman Dykstra stated okay, so we have taken care of this section.
Commissioner Pepino, did you want to say anything?

Commissioner Hirschmann stated could I have the floor for a minute.

Chairman Dykstra responded certainly.

Commissioner Hirschmann stated I don't really think that we have to take a vote, but I'd like you to acknowledge that all the hard work that we've done, taking votes in the past, wherever those chips have fallen, that it counts, and it should be incorporated into where we're going. Just to erase the past three months in one swipe of the pen, I don't think it's proper. I think that we've done a lot of hard work, and Carol is working on that draft, and I know it's many pages. I think that amendments to change things are fine, but just to say in one sentence that everything you worked on is hereby erased is not right, so I would appreciate my colleagues support on our hard work that we've done.

Commissioner Duffy stated I'd like to follow up on that. To the extent that the draft that was presented to us this evening does incorporate a number of the votes, in fact it even incorporates some of the things that are quote under reconsideration that have been testy, and I think Commissioner Pepino was going to suggest, if I may, that by going through that we can again get some focus in terms of what remains because I do think that the draft that was presented to us by Commissioner Shaw has in fact been sensitive to some of the issues that have been troublesome to this Commission. Somehow or other, I think that if we were to perhaps take the time to go through this, identify those areas that are still needing clarification or at least needing a vote, we can in fact identify those, and I think we can move forward fairly expeditiously.

Chairman Dykstra stated is there any other comment on that, any other discussion on that.

Commissioner Duffy stated I think we're still in the discussion stage here.

Commissioner Shaw stated no motion is on the floor.

Commissioner Cook stated let me ask another question for just clarification on what we have in front of us. I know what I got from Commissioner Shaw because it says from Commissioner Shaw. The thing that was passed out tonight is?

Commissioner Shaw responded the same thing.

Chairman Dykstra stated I didn't see it. I've got it.

Commissioner Cook asked the same thing.

Commissioner Shaw responded the same exact thing.

Commissioner Cook stated so this isn't the drafting to date of what we've done.

Commissioner Shaw responded this is this.

Commissioner Cook stated this is this without lines.

Commissioner Shaw stated without lines.

Commissioner Cook stated so we've got a red-lined version and a non red-lined version.

Commissioner Shaw stated the rationale for that was to give you an indication of what was there. I find the lines hard to read. Now maybe somebody else is better at it, but I found too much information made this...

Commissioner Cook stated I just wanted clarification that they were both the Shaw...

Commissioner Shaw stated they are exactly the same thing. I don't think there's a word change to the best of my knowledge.

Commissioner Cook responded that's fine.

Commissioner Tessier stated I like the lines.

Chairman Dykstra stated if there's anything in this document that anybody even needs to ask questions. I mean, there may be a few things. When I first got this, the feeling that I got was...Commissioner Shaw said that's not what he meant...was that it's either this or nothing. I know, and you've changed your mind on that.

Commissioner Shaw responded I didn't change my mind. I made a mistake.

Chairman Dykstra stated well, you made a mistake, and that's acceptable. We all make mistakes, and that's not a problem, but there are things in here, yes, because a lot of these things, we did vote for. There are things in here. I want to ask you a few questions okay, Bob. Now this still basically goes back to the non-partisan.

Commissioner Shaw stated it's what the people wanted before I changed my vote the last time. I put it back to where it was, which definitely shouldn't have irritated one side. It should have irritated the other side. It's for you, I'm consistent. For the other side, I am inconsistent.

Commissioner Cook interjected you've been consistent. You've irritated both sides.

Chairman Dykstra stated no, it's not to be irritated. It's just to be informed and right now, this document, you basically went back to your 12 Aldermen and you know, basically getting rid of the At Large.

Commissioner Cook stated that's what he did.

Commissioner Shaw stated I did that because I was peeved at the last meeting.

Chairman Dykstra stated so fine. So that is something that you still strongly believe in, that it should be a non-partisan, and it should be 12 Aldermen, no Aldermen At Large.

Commissioner Cook stated no. He's got partisan.

Chairman Dykstra responded I'm sorry. I made a mistake too.

Commissioner Shaw stated I went backwards. I should have irritated the other side.

Chairman Dykstra stated you went with partisan, but you get rid of the Aldermen At Large, correct, and the School Board members At Large.

Commissioner Shaw responded that's what I did. Can I just stop you there to say that when this document was prepared, it was sent only to the Commissioners, the Mayor, and the City Solicitor.

Chairman Dykstra stated that's fine. I have no problem.

Commissioner Shaw stated I just want you to know that, that it wasn't sent anywhere. You should see it first.

Chairman Dykstra stated you know, it gets out there anyways Bob. It really doesn't matter to me.

Commissioner Cook stated it's a public document.

Commissioner Shaw stated but I wanted you to see it first. No surprises.

Chairman Dykstra stated I just wanted to ask a few questions on this and pardon my allergies here tonight. You know, you've got strong mayor form of government. I have no problem with that. The Aldermen, I have no problem with. The thing is, I'm just going to tell you where I stand, and maybe things can work out. We all can probably address you on this, okay, because we don't know how far you're going to go, which way or whatever. When you mentioned that all matters must be referred to committees, must lie on the table, okay. Public testimony is allowed at all committee meetings.

Commissioner Shaw interjected would you like me to explain that one to you.

Chairman Dykstra stated I just wanted to tell you that what I want added to that is what we had before, is that we have that once a month public participation.

Commissioner Pepino interjected for the people.

Commissioner Hirschmann stated I'll second that.

Chairman Dykstra stated I just want to know if that's something that you would agree to.

Commissioner Cook stated we already voted on that. We're just going over something. We don't have any motion on the floor.

Chairman Dykstra responded we're just discussing. I think I'm allowed to discuss as everyone else is.

Commissioner Hirschmann stated we've adopted it monthly and in the committees.

Commissioner Shaw stated what was the first point of that because I don't have my copy in front of me. What was the first point you made?

Chairman Dykstra stated would you allow committee meetings, which I agree.

Commissioner Shaw stated no, no. I wanted to get the first thought here. This part about refer to committee. This came about...you have to know a history of this...this came about because I've got cable television, and the first time I've watched...

Chairman Dykstra interjected but you never had it before, Bob.

Commissioner Shaw stated and now I watch Channel 22, and I'm frustrated with the government. I think citizens should not expect things going before the Board and pass tonight. I think that they need to know that something is coming up, and there'd be a delay, but if that item...

Chairman Dykstra interjected but they get both.

Commissioner Shaw stated but if that item was sent to a committee first and then they voted to send it to the Board, the Board could pass it that night. That was my intent, that nothing got past the public in a few seconds. That was the intent of that.

Chairman Dykstra stated but as I mentioned, things come up right at the last minute, and some people like that.

Commissioner Shaw stated they can't pass.

Chairman Dykstra stated but it's just people giving their input and how they want things done. I just want to tell you what I feel about this document very quickly. Everyone else here can probably tell Bob what they think or whatever, but that meant a lot to me that people have that participation once a month. I still want to...I mean the way you have the commissions, I don't mind if you eliminate the commissions. I'd have no problem with that, this way here. Like I said, if you have them, I still would want them advisory, but to eliminate them, I have no problem with that. The budget, as long as they're both going to be at that time, I can bend in that area and do it in April as long as they both do it at the same time and it's not something final. They can open it up. Okay, so those things really...the thing I have a problem with but I think I can live with because I'm not going to be an Alderman, and I'm not running, is that daytime government. "All meetings except public hearings ending by 6 p.m." I don't know how the public is going to go with this. I mean, that's not a major thing for me. What's major for me is that I want commissions to be advisory, or I don't want them.

Commissioner Shaw interjected they are.

Chairman Dykstra stated I want the partisan, and I want the 12 Aldermen. I mean, I'm just being up front here with everyone, and I basically want to have that enforcement put back in, that penalty that Kevin Clougherty brought forth, that there would either be a fine or jail. Is that in here?

Commissioner Shaw responded couldn't find it.

Chairman Dykstra stated couldn't find it, but I would like that incorporated. Would you have a problem?

Commissioner Shaw responded it's in the box now. I found it, but couldn't find it. That's why it isn't in there.

Commissioner Soucy stated it's in the State statutes.

Commissioner Shaw stated it's a law, but I couldn't find it.

Chairman Dykstra stated pardon my voice, but these are things that I think that I could live with what you're doing here, Commissioner, if these things basically can go into it. I didn't know if you had problems with what I just mentioned.

Commissioner Shaw stated I don't have any problems with people wanting to make it better. When I said this is a minimum because this is pretty much what people had said. I said in the beginning, Madame Chairman, there are four for 14 Aldermen. There are four against, okay. I'm the swing vote on that, and I would be able to argue either point here as the ones that are correct on this thing here, and that's my dilemma. I could argue either side. Having 14 is correct, having non-partisan is correct or 12 Aldermen is correct. Why I say that is because you have to go with the reality. The partisan especially and non-partisan, the City is not non-partisan. If it was for a second...

Chairman Dykstra interjected the reality, Commissioner, I mean where are we going. Are you for partisan?

Commissioner Shaw responded I think that's the direction we're going.

Chairman Dykstra stated I know. That's what you say here, but are you still there? Are we all on the same page?

Commissioner Shaw responded absolutely. I think that's a cheaper government.

Chairman Dykstra stated all right, so you do support partisan. And do you still support 12 Aldermen, 12 School Board members?

Commissioner Shaw responded I think it's cheaper.

Chairman Dykstra stated okay, fine. Any other questions that people want to ask.

Commissioner Cook stated I have a question.

Chairman Dykstra stated oh wow, here we go. All right.

Commissioner Cook stated it's a very specific question. You've alluded to this before when you were presenting the general discussion of what you did. I don't understand the...and I'm not sure anybody has ever asked for it, but maybe they have...this Chairman and Vice Chairman from two different political parties of the Aldermanic Board and having them appoint the Aldermanic committees. The last time I discussed that issue with you, and I know you don't get stuck on consistency, but the last time I discussed that with you, you wanted to take out the word standing because you thought the Mayor should appoint all committees and not just standing committees, and you thought it was a trick. Now, where did that come from?

Commissioner Shaw responded that's a very important point to bring up, you see because having gone up to Concord and testified for the first time in about 20 years at a hearing, what I liked best about going to Concord was that testimony was allowed. They were partisan, non-partisan. People picked the chairmen or the House picked its members, and the minority gets to pick some of their members. When I went to that committee, not everybody on that committee was from the majority party. I presume that.

Commissioner Cook interjected yes, but the Chairman and the Vice Chairman were picked by the Speaker.

Commissioner Shaw stated you see, within the thing...by the Speaker who was picked by the House. So in my philosophy of government, the Aldermen pick their people. Now, in the U.S. Congress, the head of the Democratic Party, he picks so many people. The head of the Republican Party picks so many people, and it's done on who has the leadership role, and so I said I wanted the same form of government in the City of Manchester where we had a leadership. I said they had to vote for their leadership. They voted for the majority one for sure, and then the second one, you know, could be voted by the same body, and he would be Vice Chairman, and the committees would not be made up of all Republicans. It would be made up of three Republicans, two Democrats or vice-versa. It was based on the U.S. Congress.

Commissioner Cook interjected pardon me, Madame Chair, for just talking. A), the Board of Aldermen, yes they have legislative functions, but in essence, they're the Board of Directors. They are not a legislative body that has 424 people. B), You could have a circumstance, when you had, if you had 12 Aldermen, you could have 11 Republicans get elected and one Democrat last year. Under your system, the one Democrat...

Commissioner Shaw interjected he'd have to appoint some Republicans, probably liberal leaning ones if they were ever elected.

Commissioner Cook stated most of these issues are not liberal and conservative.

Commissioner Shaw stated I agree with you.

Commissioner Cook stated you could get into a circumstance with this system that would be aberrational to say the least.

Commissioner Shaw stated what we have now is the Mayor appoints all five members. That could be good or bad. Being Mayor, it's a terribly, terribly hard job to do. If you don't satisfy the Aldermen, they think up committees to get around you, and that was that standing. So I said, I took away from the Mayor a power that he has, and I gave that to the Aldermen because I favor a strong Aldermanic form of government, strong. And I gave to the Mayor powers that the Aldermen had, and I thought and this was strictly out of my own mind, it isn't perfect, and then I had to go based on the U.S. Constitution, the U.S. House and the Senate, how that works. So that's how this came about. You notice they can't be in the same party.

Commissioner Cook stated I thought you were mixing your metaphors because the legislative body isn't an Aldermanic Board.

Commissioner Shaw responded no. I think they grow to be a legislative board. There is a difference.

Chairman Dykstra stated do you want to discuss any more of this.

Commissioner Shaw responded no, I think that's my difference with you on this.

Chairman Dykstra stated this document is still here. There's a lot of work in it. There's a lot of things I support. Some things I do not support. I certainly don't like the way things transpired, but the bottom line is we're here to do something for the people.

Commissioner Shaw stated that's the most innocent of all.

Chairman Dykstra responded no, I mean, Bob. I still like you, Bob. I still like you, even though you give me a tough time. I just want to have a good document to bring forth to the citizens, and this is here. I mean, it's still here. We can look at it some more. We are going to meet next week. There are some things that I

would like changed in this. You just gave this to me two days ago, Bob. I do have an outside life, not much but a little. We just got it a couple of days ago, Commissioner Shaw, so I'd like to be able to look through this a little more. I'd like to incorporate, and I'm up front with you. I've told you the things that I would like to see in it. Other Commissioners here probably disagree, but there are things they would like to see. I plan to bring forth something at the next meeting, revising some of this, and if anyone else does agree to.

Commissioner Shaw stated now, it's so late, but was the Clerk prepared to make changes tonight and produce pieces of paper or that couldn't happen. Is there somebody in this building that is prepared to...say she wanted conduct.

Chairman Dykstra interjected it's kind of late.

Commissioner Shaw stated I just was curious if that was available. It's too late now, but was that available?

Deputy Clerk Johnson responded we have a computer in the other room, and we have a printer, and we could have Steve go out and do...

Commissioner Shaw interjected I had made provisions for changes, and it would have been just to take a page out and put a page back in.

Chairman Dykstra stated whereas we have this document, and there are some people here that probably agree with some and not all, what we can probably do is look it over, and if there's someone here, we can come forth or we can do something. We can come forth with whatever changes we feel we may want. Then we'll probably have to take votes, right? As we make changes to this.

Deputy Clerk Johnson stated if you're going to use this as sort of a base document and you don't have to vote on it as a base document even, my suggestion would be, I guess at this point that people take it back. They look at it. They come in with amendments to it that they would like to see, and perhaps you go through it section by section next week, and you vote things up or down accordingly if that's what you want to do. I'm not of any opinion one way or the other about it. If you decide that you want to do that or you want to take a different document and use it, and somebody wants to come into the Clerk's office, I'll be happy to work with anybody.

Chairman Dykstra stated right, exactly.

Commissioner Hirschmann stated if we're going to work from this document, I'm prepared now to do our Charter work. I'm not saying we leave this on the table, and let anyone think that this is all right because this isn't totally all right.

Chairman Dykstra stated I agree.

Commissioner Hirschmann stated so if we feel the public testimony needs to be put back, I'll make a motion right now to amend and put public testimony back in, and then we vote on that, and then we vote on as many amendments as need be, and then when time runs out, we can do more amendments next week until we get the document that we really want. I'm not comfortable leaving here, leaving this the way it is.

Chairman Dykstra stated you're saying get some of it done.

Commissioner Hirschmann responded so I'm saying I make a motion to restore public testimony. He said he's comfortable with amendments. There's an amendment.

Commissioner Soucy stated this document isn't on the table. We've already voted to have public testimony.

Commissioner Hirschmann stated we need a clarification of what we're going to work from.

Commissioner Soucy responded right. I have a question. When we prepare our final report, when we incorporate everything we've done...

Deputy Clerk Johnson stated the preliminary or the final because there are two reports you have to come out with. Are we talking the preliminary report that's going to go out?

Commissioner Soucy responded the April report in essence. I'm actually thinking the final report, but when we present our report to the State and then present it to the voters, I mean following it coming back from the State, we're going to have to make changes if they suggest we do.

Deputy Clerk Johnson stated so the preliminary report we're talking about.

Commissioner Soucy responded correct. Won't that report have to reflect the changes that we made to the existing Charter, which is the 96 Charter?

Deputy Clerk Johnson stated no. You have opted as a group, at this point in time and that doesn't mean you can't go back and do something else...there's always that availability.

Commissioner Soucy stated so what we're saying is that we've started fresh, and the document that we're going to produce will be a whole new document.

Deputy Clerk Johnson stated you started fresh with the 1982 Charter okay, and from that you started making changes. You're really using the 1982 Charter as the base. That's what you agreed to as a group. From that, you're making changes, and some of the changes you have made is to put the 96 language in rather than the 82 language. We have been trying to keep track of that, but because there have been so many reconsiderations every week, I'm afraid to give you any documents because it's changing. So in essence, that's why I said if you want to do the same exercise with this, we can take that 82 document. It doesn't have to be...what you're submitting is your own revised Charter is what you're doing at this point because that's what you elected to do.

Commissioner Soucy stated so what we are submitting would be a whole new document.

Deputy Clerk Johnson responded it's a new document. That's what you voted to do from the very, very beginning as a group.

Commissioner Soucy stated may I just ask a further question. So if we submit our final report, it goes to the State, and we finally have a report that is going to be on the ballot, which is the whole new document that this Commission will have put together, if I am a voter in the City of Manchester, and I want to understand the difference between the document that exists today and what our government is operating under and the document we create...

Deputy Clerk Johnson stated we have to produce a document as well that is going to tell you the difference between the two.

Commissioner Cook stated we produce a report that tells them what we did.

Deputy Clerk Johnson stated what in essence you will do is you come up with your final document. In addition to that, you need to state publicly in a report form what the major changes are between the document that the voters now are operating under and the document that you have now produced.

Commissioner Soucy stated and how will that be made available to the voters in the City.

Deputy Clerk Johnson responded through our office, the same way we did it the last time, and we would envision that that report will be part of what we present to the...because my understanding was this Commission took a vote that by April 30th, you were going to hold a public hearing, and you were going to close out your discussion April 24th, so we could clean it up and make sure you had all your report together that was going out to the public at that time because you do have to distribute it, and that was the way you elected to do so. So the public would then comment on what changes from one to another you have made because we would put that as part of our report. The document at the same time would then go up for review, and then you were going to sit down with all of your public comment, your DRA comments, your Secretary of State comments, and you were going to revise your document. That was the initial intent as you sat down as I understood it. When it goes to the voters, it will just simply be a short question. However, you will also have made public all of the information that goes with that, and there will be descriptions available to the public as part of that, the same as it was done last time.

Commissioner Pepino stated I had asked the question before if you wanted to work on this just for a working document, and nobody said anything. Now, everybody's talking about it. Nobody has moved to accept this yet.

Commissioner Shaw stated we're not ready to accept it.

Chairman Dykstra stated you can. You can make a motion to accept this as a working document if that's what you want to do.

Commissioner Pepino stated that's all that I asked.

Chairman Dykstra responded all right, but you didn't make a motion. We discussed kind of...if you want to make a motion, you can make a motion.

Commissioner Pepino stated Commissioner Duffy there said he thought it was a very good idea.

Chairman Dykstra stated then it is a good idea. You can make a motion to accept this as a working document.

Commissioner Pepino stated I'll move we use this as a working document.

Commissioner Wihby duly seconded the motion.

Commissioner Pepino stated when we come in next week, we'll have our changes.

Chairman Dykstra stated anybody can do what they want. Let's just take a vote on this.

Commissioner Hirschmann stated can I ask a question. If this is the working document, what about all the votes that we've taken?

Chairman Dykstra responded you can take those and incorporate it in this.

Commissioner Hirschmann stated can the Clerk incorporate it in there. There was a section of violations that we passed. There's all kinds of language we passed.

Chairman Dykstra stated we can take all these things, we can take them all and put them in, like I asked about the enforcement code. Most of it's in there, but the enforcement code was not. Did you put it in the new one? I don't know.

Commissioner Soucy stated but the bottom line question is what does this motion do to all of the work that we've done for the last three months. If it negates it...

Commissioner Cook interjected we've already withdrawn substituting for the work we've done.

Commissioner Tessier stated it negates all of it. You're right.

Chairman Dykstra stated what have we done that's not in here.

Commissioner Cook responded right now, just to be very straightforward, what we have passed and what is on the table is non-partisan elections and 14 Aldermen. That's what's passed. That's not here. We've passed all kinds of things that are different things. If saying this is a working document means we're going to use this for topic headings to decide what we wanted to do all along, that's the same as outlining.

Commissioner Dykstra stated I'm going to look at this. You can look at it, but you made a motion to reverse the previous decision. There's no one here that can't do the same thing and reverse it again. So, you said we already passed non-partisan, we already passed it. It doesn't mean it's cast in concrete.

Commissioner Cook responded I didn't say that.

Chairman Dykstra stated okay, then what did you say.

Commissioner Cook stated the question that was asked about what does it mean that we're using this for a working document is what does that do to the status of all those votes, not can they be reversed. Obviously, they can be reversed, but Commissioner Shaw made a motion earlier that was to substitute this for everything that had been done which would have negated all of the votes whether they were his votes, my votes, somebody else's votes.

Chairman Dykstra stated I agree, but we're not doing that.

Commissioner Cook stated I think the question that was asked is what does this as a working document mean, and it seems to me that if we could do this, and I hate to put work on the Clerk's office, but if we could have an annotated version of this that tracks this because there's a lot of good work here as we've said, but also with the status of what we've passed whether it's an annotation in the margin or it says okay the Robert Shaw whatever date version it is in the margin, present status of what the Commission has passed is such and such. Then, we've got a rolling document. We can make whatever choices we want to make.

Chairman Dykstra stated I understand exactly what you're saying. What if we just got a list of what was already passed. What's wrong with that? Get a list of what was already passed. This can be a working document, but the 1984, we were working...we can work from the other Charter.

Commissioner Cook stated I agree. I've made a mistake when I said that was okay. The lined out version is clearer on where it came from. That's a pretty good format because you go back to the first page. You figure out where it came from. That's very helpful, but if where it says there will 12 Aldermen, in the margin it said "present vote 14" and where it says partisan elections, it says "present vote non-partisan". We'll have something to know where we are. That's all I'm saying.

Chairman Dykstra stated exactly. That's fine. Can you get...if we just had a list of what we did.

Commissioner Cook stated no, I'd like it annotated.

Chairman Dykstra asked the Deputy Clerk if she could do that, and she indicated that she could.

Commissioner Duffy stated she can do it. What I would suggest is you just put a number and have this other list beside it, so against for instance the whole question about the number of Aldermen, put a number and on a separate list, you say the current vote is x, contrary to what's in this document.

Chairman Dykstra stated that's fine. That's perfect.

Commissioner Duffy stated it's simple enough. I think it will in fact move us forward.

Chairman Dykstra stated so we'll know exactly what has already been voted on as compared to this document.

Commissioner Duffy stated this basically is the 1982 Charter that you worked off of in which you incorporated some of the 1996 language.

Commissioner Shaw responded and language that came from this committee itself, except for the fact that I could not find the piece of paper...

Commissioner Duffy interjected and there was something else that has to be added.

Deputy Clerk Johnson clarified it's what's voted on to date is what's set still.

Commissioner Shaw stated I think we're going in a direction, but at some point, Madame Chairman, I think the real question before us, before we can pass a Charter in this City is 14 or 12. Final, that's the final offer. If we find, and if the four people on this side would like to change the whole thing, I say they should be able to do that, you know. They got their 12. They got their partisan. They got everything they want, but they unfortunately need one person from the other side. I don't know if you're going to bring us to a point where this whole exercise is wasted because you see...

Chairman Dykstra interjected we have no choice but to go forward.

Commissioner Shaw stated I think Commissioner Soucy was trying to zero in on that. I think she's heading in that direction when she was asking about what's going to happen, and I would say to you if this vote is four to four, and there's absolutely...nothing will be published. Nothing.

Commissioner Hirschmann stated so you're not going to vote on your own Charter.

Chairman Dykstra stated you're not going to vote on your own Charter.

Commissioner Shaw stated well, you don't know that these four, you know, or this four. I don't know which four...oh no, Madame Chairman. I don't know which four are going to vote.

Commissioner Hirschmann stated then why should we work from this. I'd rather just keep the direction that we were.

Commissioner Shaw stated no, I think the thing is down. This side is not happy.

Chairman Dykstra stated I'm going to bring in...you know what...

Commissioner Shaw stated don't just throw your hands up.

Chairman Dykstra stated why not. You just told me you don't know what you're going to do.

Commissioner Shaw stated I didn't say...no, Madame Chair...

Chairman Dykstra stated for God's sakes, man. What are you going to do?

Commissioner Shaw stated I didn't say that. Is that true that we're split four to four?

Chairman Dykstra responded I don't know. How dare you count the votes.

Commissioner Soucy stated on some issues, yes. On the majority of issues, no.

Chairman Dykstra stated sometimes we're seven to one.

Commissioner Shaw stated when the Charter comes to a final vote, though...

Chairman Dykstra stated we have had votes that were closer than that. We didn't have...

Commissioner Soucy stated we've had seven to two. We've had eight to one. We've had votes all over the place.

Commissioner Shaw stated Madame Chairman, on the final version, the final version, in order to get that fifth vote, you have to go 14 and non-partisan. Will you vote to get it passed to the people?

Chairman Dykstra responded I just told you what I wanted, and I thought that's what you just said you wanted.

Commissioner Shaw stated I just want to be sure that there are four votes.

Chairman Dykstra stated if you're going to count votes, Commissioner, let's call it just the way it is. Okay. There are four of us here that want the partisan elections and eliminating the Aldermen At Large. You supported that from day one. If you back down, then you're the one that's going to do it. Not us. I'm staying consistent. I don't know how much more I can tell you that. I am not going to change my mind every other week. I know what I think is good for the people. I've heard the people. I believe I'm doing the right thing. You're confusing the heck out of everybody. You really are. Now, let's just go on and do something else. What we're going to do is I'm going to just make up my own Charter next week. Okay? Is that all right with everyone? And bring it in. Now is there any further discussion today?

Commissioner Tessier stated do we have a motion on the table.

Chairman Dykstra stated no, we don't. What motion do we have?

Commissioner Cook stated yes, a motion to use this for discussion.

Commissioner Soucy stated by Commissioner Pepino.

Chairman Dykstra stated do you want to withdraw it or are you going to keep it. It's up to you.

Commissioner Pepino stated we can't even get together on discussing this.

Chairman Dykstra stated he doesn't even agree with what he's done in his Charter.

Commissioner Shaw responded Madame Chairman, you're wrong. You have a right to your interpretation, but you don't have to be wrong.

Chairman Dykstra stated interpretation...you just said four votes here, four there, and I'm not going to vote, you just said.

Commissioner Shaw stated I didn't say it. I said, "Would you find out if anybody wants to do this."

Chairman Dykstra stated I may be getting older Bob, but I haven't lost my hearing yet.

Commissioner Pepino stated can I say something. This is to the group. There are certain things that we want I can give up. There's something I can give, but if I gave them, I expect you people to do the same thing.

Commissioner Shaw interjected that's good government.

Commissioner Pepino stated there are certain things there I'll give on, that I'm not really firm on. I'll give, but I would expect you people to do the same thing. If we're going to give, you've got to give. That's what it's all about. Give and take.

Chairman Dykstra stated you can still make motions. If someone wants to make a motion to move to partisan elections, you can do that. Is there a motion on the floor?

Deputy Clerk Johnson stated he had moved to use that as a working document. That was seconded, but it hasn't been disposed of yet.

Commissioner Cook stated I would like to make an amendment. I'd like to amend the motion to add...I believe the motion was to use this as the document going forward for a working document. I would like to amend it to say that it be annotated with the present status of the motions that we've taken so that we can use them for reference as was discussed...

Chairman Dykstra stated I thought that's what we were talking about.

Commissioner Tessier it wasn't part of the motion.

Commissioner Cook stated that wasn't part of the motion. If they'll accept the clarification of the motion to mean that, then I'm fine with it.

Commissioner Pepino stated that's what we were talking about.

Commissioner Cook stated that wasn't your motion, but if that's what we're talking about.

Commissioner Shaw stated move the question please.

Commissioner Hirschmann stated we'll move forward from this document whether or not Bob Shaw does or not. We'll start with this document, and we'll follow it to the end with a lot of amendments.

Chairman Dykstra stated well, why don't we just do our own then.

Commissioner Cook stated is it my understanding that Commissioner Pepino accepted the amendment to mean that it was annotated.

Commissioner Pepino stated just one more point. Number one thing now, this is what I don't like. This is supposed to be Shaw's Charter. Now you know, you know in Concord when you present this bill to the committee, you don't own it any more. It's ours. This is our Charter, not his. That's the way it works.

Commissioner Cook stated did I get an answer to my question.

Commissioner Shaw stated we agree on that.

Chairman Dykstra stated you have an amendment. We're discussing your amendment.

Commissioner Pepino stated hear me out. A lot of times, the committee will take your bill and make it what you don't want it to say, and when it passes, you're hung with the language.

Commissioner Cook stated did you accept my suggestion that the thing that was going forward would be annotated or do we have to amend it. My question is your motion was that we use this as the working document, which is fine. We had a long discussion about whether we would annotate it with the present state of the vote. Is that what you meant?

Commissioner Pepino responded we should, yeah.

Commissioner Cook stated okay. So he's accepting that in his motion.

Chairman Dykstra stated whether we use it or not is fine, but sure.

Commissioner Pepino stated most of our things are in here, and I'll give on some.

Commissioner Tessier stated your question hasn't been answered, Brad.

Commissioner Wihby stated just for clarification, which is set in stone, the annotation or...

Deputy Clerk Johnson responded the annotation says what the Commission has voted on to date, so those are what would stay on the table as of this point until they're changed. What you're doing is you're saying in essence instead of using the 82 as your working document, you're now moving to this, but you will have annotations on the side that say what you voted on.

Commissioner Wihby stated wouldn't that be more confusing.

Deputy Clerk Johnson stated I think Commissioner Duffy's suggestion was to do it as a listing.

Commissioner Cook stated the beauty of it is there's a whole lot of stuff, and this is where we have to get, and I think we've all been saying this. I don't think there's any disagreement. We've got to get to all the things we haven't acted on yet, so if we get to paragraph one, and we voted to do x, then we go down the road, so you need to know what you've done. You're looking at it, but all those other things, you haven't acted on yet, you get to and you say, "Yeah, I like it that way. No, I don't like it that way." And so, most of this remaining stuff is not contentious. 90 percent of the Charter the last time was the same as the Charter before.

Chairman Dykstra stated we have this right here now. We can take a vote. Everybody understand what we're doing here?

Chairman Dykstra called for a vote. The motion carried with Commissioner Soucy duly recorded in opposition.

Chairman Dykstra stated at this time, I would like to make a motion that we go back to partisan elections.

Commissioner Hirschmann duly seconded the motion.

Commissioner Cook stated wait a minute. Wait a minute.

Chairman Dykstra stated we're taking a vote here.

Deputy Clerk Johnson asked partisan with 12 Aldermen or just partisan.

Chairman Dykstra responded partisan elections with 12 Aldermen. 12 Aldermen, 12 School Board people. I'm going to make that motion. I have a second.

Commissioner Cook stated you said partisan elections and then somebody was talking about members of the School Board.

Commissioner Soucy stated and then you added to the motion.

Commissioner Cook stated tell me what the motion is please.

Chairman Dykstra stated well if you want a clarification, I'm making a motion to make the elections, bring them back to a partisan elections, that we have 12 Aldermen and 12 School Board members.

Commissioner Cook stated so it's both things in the motion.

Chairman Dykstra responded that's exactly what it is. I got a second to it. We can have a discussion on this, have a discussion on it. If not, we'll just call for a roll call vote.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Wihby, and Dykstra vote yea. Commissioners Cook, Duffy, Soucy, and Tessier voted nay. Commissioner Shaw abstained. The motion failed.

Chairman Dykstra stated okay, it fails.

Commissioner Hirschmann stated I'd like to reconsider working from this document.

Chairman Dykstra stated do I have a second to the reconsideration.

Commissioner Pepino stated here we go again.

Commissioner Shaw stated it's in this document. If you accept the document.

Commissioner Hirschmann stated he won't vote on his own document.

Commissioner Pepino stated we're into something else and then we're into something else, and we're taking a vote on...I mean, you know, this is like Moe, Larry and Curly.

Commissioner Wihby stated he thinks we're not using this document.

Chairman Dykstra stated we were using this document, but we were going to get...what Commissioner Cook had said. We had things we have already passed. Commissioner Soucy brought that up, and that's exactly right. She was just going to list basically what we had already passed and what he had, just to see the difference, so we'd know what was different from what was in here.

Commissioner Tessier stated I thought we were going to at least wait until we got the list before we started working off of this document.

Chairman Dykstra responded what list. No, we don't have to wait for anything. No, we don't.

Commissioner Duffy stated Madame Chair, maybe we don't have to wait for anything, but it's obvious...

Chairman Dykstra interjected we can make motions at any time.

Commissioner Duffy stated that may be the case, but I think quite honestly, the reason that it ended up where it did is because the Commission is not ready until we see something before us as a result of the work...

Chairman Dykstra responded right, but we've already voted on the partisan elections several times, Commissioner.

Commissioner Duffy stated yes, we have, but until we have that...

Chairman Dykstra stated that was my right to make that motion.

Commissioner Duffy stated we're not denying that.

Commissioner Tessier stated but we did this in good faith to see what we had voted on so we could compare the two.

Chairman Dykstra stated I think we all know how we voted on the partisan. It was brought back by Commissioner Cook to reverse the decision, so let's not make believe we do not know what happened there.

There being no further business, on motion of Commissioner Duffy, duly seconded by Commissioner Pepino, it was voted to adjourn.

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary